

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

2520 Venture Oaks Way, Suite 350

Sacramento, CA 95833

(916) 274-5721

FAX (916) 274-5743

Website address www.dir.ca.gov/oshsbATTACHMENT NO. 2INITIAL STATEMENT OF REASONS

CALIFORNIA CODE OF REGULATIONS

TITLE 8: Chapter 4, Subchapter 6.2, Articles 1 through 4, Sections 3195.1 through 3195.14

Inspection of Permanent Amusement Rides, Including Aquatic DevicesSUMMARY

The Legislature recently enacted Part 8.1, Sections 7920 through 7932, of the California Labor Code. This legislation established the Permanent Amusement Ride Safety Inspection Program, which has as a core function the oversight and performance of inspections conducted for the purpose of promoting the safety of patrons of permanent amusement rides.

Pursuant to Labor Code Section 7923, the Division of Occupational Safety and Health (Division) has the authority to "formulate and propose rules and regulations for adoption by the Occupational Safety and Health Standards Board (Board) for the safe installation, repair, maintenance, use, operation, and inspection of all permanent amusement rides as the Division finds necessary for the protection of the general public using permanent amusement rides." These rules and regulations are to "be in addition to the existing applicable safety orders and will be concerned with engineering force stresses, safety devices, and preventative maintenance."

Accordingly, the following is a description of the regulations proposed by the Division for adoption by the Board pursuant to Section 7923.

SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTIONArticle 1. Application and DefinitionsSection 3195.1. Application.Subsection (a)

Proposed subsection (a) describes the scope of application of Subchapter 6.2. The requirements of Subchapter 6.2 apply to permanent amusement rides operated anywhere in California. Articles 1, 2, and 4 apply to all permanent amusement rides, including aquatic devices, while Article 3 applies only to aquatic devices.

This subsection is necessary to ensure that amusement ride operators and owners understand what requirements are applicable to their particular businesses.

Subsection (b)

Proposed subsection (b) lists the specific sections of seven industry standards that are referred to in Subchapter 6.2 and which are incorporated by reference therein. These standards are all published by the American Society for Testing and Materials (ASTM) in a document entitled “ASTM Standards on Amusement Rides and Devices, 6th Edition 2000.” They consist of provisions applicable to ride manufacturers as well as ride owners and operators.

The referenced ASTM provisions form the basic compliance framework of the proposed regulations. This framework consists in part of requirements directly referencing ASTM provisions and in part of requirements based on ASTM concepts. The purpose of this approach is to tailor the ride-safety standards articulated by ASTM to ride owners and operators, who are the ultimate bearers of the duty to provide a safe permanent amusement ride environment to patrons in the State of California. The Board believes that adoption of this framework will constitute, for the most part, a regulatory standardization of practices that already exist throughout most of the permanent amusement ride industry in California.

This subsection is necessary to ensure that owners and operators of permanent amusement rides understand precisely what documents are being referred to in subsequent sections. These documents are consensus standards developed by the amusement ride industry with regard to: design and manufacture of permanent amusement rides, methods of testing, and specifications for performance, operation, maintenance, inspection, and other related topics.

Section 3195.2. Definitions.

Proposed Section 3195.2 defines thirteen terms used in Subchapter 6.2, and indicates that other relevant definitions are found in Section 344.6 of Title 8. The thirteen terms defined by this section are: “amusement ride incident,” “aquatic device,” “authorized person,” “DIN Standard,” “existing permanent amusement ride,” “facility,” “flume,” “patron,” “public operation,” “ride,” “splash pool,” “TUV Standard,” and “water slide.”

This section is necessary to make the meaning of the listed terms clear to the regulated public.

Article 2. Requirements, Other than Recordkeeping and Transfer of Information, Applicable to All Permanent Amusement Rides.

Section 3195.3. Required Documentation.

Subsection (a)

Proposed subsection (a), in subsections (1) through (6), requires owners/operators to have and maintain specified types of documentation for each permanent amusement ride operated at a facility. The purpose of this documentation is to contain and provide information and procedures pertaining to specific categories of permanent amusement ride safety. This documentation serves as a means for the Division to determine whether the owner or operator has developed the information and procedures necessary to operate and maintain permanent amusement rides safely. The documentation additionally serves, as indicated in the descriptions of some of the proposed sections below, as a body of enforceable safety-related specifications with which owners and operators are required to comply.

Subsection (a)(1)

Proposed subsection (a)(1) requires owners/operators to have and maintain manufacturer-originated documentation indicating that the design and manufacture of the ride is in compliance with ASTM F 1159-97a. The documentation is required to include certain design and calculation documents specified in Section 4.1 of ASTM F 1159-97a. While it is conceivable that some basic ride design documentation developed by the manufacturer might be claimed to be a trade secret, the ASTM provision referred to here calls for information that is generically described. Since the purpose of the ASTM provision is to call for information that can be used to evaluate basic design safety issues in connection with an amusement ride, documentation meeting the intent of this provision will be available from a compliant manufacturer.

Two exceptions are provided. The first permits documentation of compliance with other accepted standards as an alternative to documentation of compliance with the referenced ASTM provisions, provided the alternative documentation provides a level of detail comparable to that specified by the referenced ASTM provisions.

The second exception is provided for existing amusement rides in recognition of the fact that the required documentation is generated by one or more manufacturers of a ride, not by the owner or operator. This could result, particularly in the case of older rides, in situations in which the required documentation is reasonably believed not to exist or is not reasonably available. Documentation may not be reasonably available in whole or in part for different reasons. For example, the manufacturer may have gone out of business and the manufacturer's documentation may have been lost or never received by the owner or operator. Therefore, where required documentation is reasonably believed not to exist or is not reasonably available, the second exception allows the owner or operator to comply with subsection (a)(1) by having and maintaining that documentation from the manufacturer which is reasonably available and, if information is missing on performance characteristics or forces on passengers, using alternative documentation as a supplement to the extent such information is necessary for a reasonably adequate evaluation of the safety of any ride.

The issue of required documentation being reasonably believed not to exist or not being reasonably available appears repeatedly throughout proposed Section 3195.3. In each case where this issue

appears, there is an exception providing for alternative compliance in the form of having and maintaining that documentation which is reasonably available and by filling in gaps in essential information by having and maintaining alternative documentation which need not come from the manufacturer. This compliance dichotomy is premised upon recognition of the basic reality that (1) the required information is essential to the basic operation and maintenance of the ride; and (2) where the necessary information as it came or should have come from the manufacturer has been lost or is otherwise not reasonably available, owners and operators have been able and should continue to be able to obtain this information through their experience with and observation of the actual operation of the ride.

This subsection is necessary to ensure that all permanent amusement rides comply with the minimum design and manufacturing standards developed and recognized by the amusement ride industry and other recognized experts and authorities. The drawings, records and calculations are necessary to familiarize the Division with the rides when conducting inspections. The exceptions are necessary to provide for the circumstances indicated.

Subsection (a)(2)

Proposed subsection (a)(2) requires owners/operators to have and maintain manufacturer-originated documentation conforming to Sections 5 through 8 of ASTM F 846-92 (Reapproved 1998) on developmental, installation, operational, and nondestructive testing procedures. Exceptions are provided for existing permanent amusement rides only. These exceptions apply if the complete documentation required by Section 3195.3(a)(2) is reasonably believed not to exist or is not reasonably available.

The documentation required by proposed subsection (a)(2) is necessary for at least three reasons: (1) to ensure that owners and operators have evidence of, and the Division can verify the performance of, the safety related testing that should have been performed in connection with the manufacture and installation of permanent amusement rides; (2) to serve as an instruction and reference for ongoing safety-related testing of the ride by the owner or operator; and (3) to serve as a body of specifications for testing required by proposed Section 3195.5. The exceptions for existing permanent amusement rides are necessary to ensure to the extent reasonably possible, in the absence of manufacturer-originated documentation, that comparable documentation is maintained.

Subsection (a)(3)

Proposed subsection (a)(3) requires owners/operators to have and maintain documentation consisting of (1) manufacturer-originated maintenance instructions conforming to the specifications of Section 4 of ASTM F 853-98 and (2) mandatory maintenance procedures conforming to the specifications of Sections 5 and 6 of ASTM F 853-98. The maintenance procedures are to include an effective training program, which must conform to the specifications of Section 6.2 of ASTM F 853-98, include a manual containing the training subject matter, and specify the length of initial and refresher training as well as the frequency of refresher training.

An exception applies, for existing permanent amusement rides only, if the required documentation is reasonably believed not to exist or is not reasonably available. The exception allows alternative compliance in the form of having and maintaining that documentation which is reasonably available and by having and maintaining effective substitute maintenance instructions meeting a number of specifications reflecting the essential safety concerns of ASTM F 853-98.

The documentation required by proposed subsection (a)(3) is necessary to verify compliance with manufacturer-originated maintenance instructions and procedures including training. The exceptions for existing permanent amusement rides ensure comparable documentation is provided if the manufacturer-originated information is not available or does not exist for existing permanent amusement rides.

Subsection (a)(4)

Proposed subsection (a)(4) requires owners/operators to have and maintain documentation on mandatory operation procedures conforming to the specifications of Sections 4.1 through 4.1.4.4 of ASTM F 770-93 (Reapproved 2000). The owner or operator is required to incorporate into this documentation the following items:

(A) Manufacturer-originated information and recommendations conforming to the specifications of Section 3 of ASTM F 770-93 (Reapproved 2000);

(B) A procedure for notifying the manufacturer of any event, failure, or malfunction reasonably and substantially appearing to have an impact on patron safety of the ride and to be of a type that could occur in connection with rides of the same design.

(C) Descriptions of signal systems procedures and testing;

(D) Procedures for implementing patron restrictions. A note follows this provision stating that it is not intended to require any action that would constitute discrimination under state or federal law; and

(E) An effective training program, which must conform to the specifications of 4.1.3 of ASTM F 770-93 (Reapproved 2000), include a manual containing the training subject matter, and specify the length of initial and refresher training as well as the frequency of refresher training.

An exception for existing amusement rides only is provided to the subsection (a)(4)(A) requirement for owners/operators to incorporate into the required documentation certain manufacturer-originated information conforming to Section 3 of ASTM F- 770-93 (Reapproved 2000). The exception applies where the required documentation is reasonably believed not to exist or is not reasonably available, and permits the alternative of obtaining that documentation which is reasonably available coupled with having and maintaining whatever additional information is necessary to provide an effective informational basis for the procedures developed in conformance with Section 4.1 through 4.1.4.4 of ASTM F 770-93 (Reapproved 2000).

This subsection is necessary to verify compliance of the owner/operator with training requirements and with manufacturer recommended operation procedures, and to verify that other procedures are implemented. The exception ensures that comparable documentation is maintained for existing permanent amusement rides if the manufacturer-originated information is not reasonably available or is reasonably believed not to exist.

Subsection (a)(5)

Proposed subsection (a)(5) requires owners/operators to have and maintain documentation indicating that the manufacturer's quality assurance program followed for the ride was in conformance with ASTM F 1193-97 and Section 5 of ASTM F 893-87 (Reapproved 1995). An exception is provided, for existing permanent amusement rides only, which applies if the documentation is reasonably believed not to exist or is not reasonably available. The exception permits the alternative of obtaining that documentation which is reasonably available.

This subsection is necessary to verify compliance with the manufacturer's quality assurance program.

Subsection (a)(6)

Proposed subsection (a)(6) requires owners/operators to have and maintain all of the manufacturer-originated information applicable to each ride as specified in ASTM 698-94. An exception for existing permanent amusement rides applies where the required documentation is reasonably believed not to exist or is not reasonably available. The exception allows the alternative of having and maintaining that documentation which is reasonably available and having and maintaining additional documentation as necessary to provide the information called for by the applicable provisions of Sections 2.2.5 through 2.5 and 2.7 through 2.15.3 of ASTM F 698-94.

This subsection is necessary to ensure that owners/operators obtain the required information, which is basic safety-related design and operational information, from the manufacturer at the initial sale or transfer of the ride. The exception for existing permanent amusement rides is necessary to ensure the essentials of this safety-related information are on hand even if the original information from the manufacturer has been lost.

Subsection (b)

Proposed subsection (b) requires owners/operators to make available to the Division upon request all of the documentation and records required to be maintained by Section 3195.3(a).

This subsection is necessary to enable the Division to evaluate the compliance of owners/operators with the requirements of subsection (a) with respect to issues such as manufacture, maintenance, operations, testing, inspections, quality assurance, and employee training.

Section 3195.4. General Design and Manufacture.

Proposed Section 3195.4 requires that no new permanent amusement ride be opened to the public unless the new permanent amusement ride was designed and manufactured in conformance with the specifications of ASTM F 1159-97a and ASTM 1193-97. An exception is provided for new permanent amusement rides designed to other generally accepted standards where compliance with such other standards can be shown to ensure patron safety comparable to that provided by these ASTM standards.

This section is necessary to ensure new permanent amusement rides opened to the public are designed and manufactured according to accepted industry standards for safety and quality.

Section 3195.5. Required Testing.

Subsection (a)

Proposed subsection (a) requires that no permanent amusement ride be operated with patrons on board unless the owner or operator has documentation demonstrating the proper performance of the ride through testing performed in conformance with the specifications of the documentation required by subsections (a)(2)(A) and (a)(2)(B) of Section 3195.3. An exception is provided for existing permanent amusement rides to mirror the exceptions to Section 3195.3(a)(2).

This subsection is necessary to ensure that patrons are not allowed on a ride unless the ride's safety has been demonstrated by applicable ASTM-specified testing procedures, as specified in proposed Section 3195.3(a)(2)(A) and (a)(2)(B), or by acceptably equivalent testing procedures, as specified in the exceptions to Section 3195.3(a)(2).

Subsection (b)

Proposed subsection (b) requires that all testing required by subsection (a) of this section be conducted by an authorized person as this term is defined at proposed Section 3195.2(d).

This subsection is necessary to ensure all testing, which is critical to ride safety, is performed by competent personnel.

Section 3195.6. Maintenance, Inspection, and Related Training.

Subsection (a)

Proposed subsection (a) requires owners/operators to follow the procedures specified in the documentation required by Section 3195.3(a)(3)(B), and requires them to provide training as specified in that documentation to each operator and attendant.

This subsection is necessary to ensure that owners/operators implement and comply with the safety-related documentation required by Section 3195.3(a)(3)(B).

Subsection (b)

Proposed subsection (b) requires that all maintenance and inspection functions be performed by an authorized person.

This subsection is necessary to ensure that these safety-critical functions are performed by competent personnel.

Section 3195.7 Operation Procedures and Related Training.

Subsection (a)

Proposed subsection (a) requires that owners/ operators of permanent amusement rides follow the operation procedures specified in the documentation required by Section 3195.3(a)(4) for each permanent amusement ride, and shall provide training as specified in that documentation to each ride operator and attendant.

This subsection is necessary to ensure that the specifications of the documentation required by Section 3195.3(a)(4) are actually followed by the owner/operator.

Subsection (b)

Proposed subsection (b) requires owners/operators to use effective signs, videos, or other similarly effective means of advising patrons of those instructions, limitations, and warnings deemed necessary for patron safety by the owner or operator, including those maintained as part of the procedures required by Section 3195.3(a)(4)(D). When signs are used for this purpose they shall be permanently and conspicuously posted at each existing permanent amusement ride.

This subsection is necessary to acquaint patrons with instructions, limitations, and warnings concerning the ride.

Subsection (c)

Proposed subsection (c) requires owners/operators to ensure that, at all times while the facility is open to the public, at least one person employed by or under the control of the owner or operator has current certification in first aid and cardiopulmonary resuscitation (CPR) from the American

Red Cross or another nationally recognized organization and is readily available to render such aid to patrons as needed.

This subsection is necessary to ensure that one or more qualified persons are available to provide first aid assistance in the event of an occurrence of injury or illness related to the operation of a permanent amusement ride.

Subsection (d)

Proposed subsection (d) requires owners/operators to ensure that complete operation instructions are readily accessible to the operators and attendants for each permanent amusement ride.

This subsection is necessary to ensure that ride operators and attendants have a ready means of refreshing their recollection or answering questions about established ride operation procedures if questions arise while they are on the job.

Subsection (e)

Proposed subsection (e) requires that all ride operation and attendant functions be performed by an authorized person.

This subsection is necessary to ensure that rides are operated and attended by persons appropriately trained and competent to provide patrons with a safe ride experience.

Section 3195.8. Physical Information and Adherence to General Safety-Related Operating Parameters.

Subsection (a)

Proposed subsection (a) requires owners/operators to ensure that permanent amusement rides are not operated with patrons on board in a manner inconsistent with the specifications of the documentation required by Section 3195.3(a)(6). An exception requiring the owner/operator to permanently affix certain information on the ride is provided for existing permanent amusement rides if manufacturer-originated information does not exist or is not reasonably available.

This subsection is necessary to ensure that rides are operated within the ride's limitations such as patron capacity, maximum design speed, patron capacity by number, balance loading, and other safety concerns addressed by the documentation required by Section 3195.3(a)(6). The exception is necessary to ensure that at least minimum information is provided for existing permanent amusement rides if the manufacturer-originated information is not available.

Subsection (b)

Proposed subsection (b) requires owners/operators to ensure that all permanent amusement rides are identified by a registration number, which shall be provided by the Division. This registration number shall be kept with other pertinent records for the amusement ride and shall be permanently affixed by a Division representative to the ride.

This subsection is necessary to ensure rides are identified to enable cross-reference of permanent amusement ride information in the field with records on file with the Division pertaining to registration, certification, and inspection.

Section 3195.9. Motion Restriction and Other Specific Hazard Control Measures.

Subsection (a) Emergency Brakes and Devices.

Proposed subsection (a) requires that ride conveyance vehicles on permanent amusement rides be provided with emergency brakes if, upon failure of normal stopping controls, collisions likely to cause injury or damage may reasonably be expected to occur. Low speed vehicles designed for controlled collisions, such as bumper cars, would not require emergency stopping controls.

This subsection is necessary to ensure that ride conveyance vehicles can be stopped in case of brake failure.

Subsection (b) Anti Rollback Controls.

Proposed subsection (b) requires that each permanent amusement ride traversing an inclined track be provided with automatic anti-rollback devices unless such controls would conflict with manufacturer recommendations.

This subsection is necessary to ensure the ride does not roll back down the incline if regular controls fail.

Subsection (c) Speed Limiting Devices and Systems.

Proposed subsection (c)(1) requires that each permanent amusement ride capable of exceeding its maximum design operating speed be provided with a speed-limiting device or system to ensure that the ride cannot exceed that speed at any time while patrons are on board. Proposed subsection (c)(2) addresses the sealing and resealing of adjustable mechanical governors. Proposed subsection (c)(3) addresses safeguards to prevent the ride operator from being able to alter the maximum speed settings of speed-limiting devices other than mechanical governors.

These subsections are necessary to provide a means of maintaining a safe operating speed if the ride is capable of exceeding the maximum design operating speed.

Subsection (d) Signal Systems.

Subsection (d)(1) requires signal systems to be used and to be adequate to control the dispatching of rides as necessary to prevent collision due to any forward unit's failure to clear a stopping point. Signal systems must also be adequate to control the operation of the ride so that neither starting nor stopping the ride results in an unsafe condition. In the case of starting the ride, the signal system must require that, before the start signal is given, there is confirmation that all patrons are safely secured within the ride conveyance vehicle and all other persons are a safe distance from the ride.

An exception provides that use of signal systems is not required if the ride is controlled by a single operator who can clearly observe all phases of operation of the ride.

Proposed subsection (d)(2) requires signal systems to be tested daily prior to initial operation with patrons on board.

Proposed subsection (d)(3) requires a written explanation for use and testing to be available at the operator's or signaler's stations.

This subsection is necessary to prevent inadvertent collisions.

Subsection (e) Protection of Patrons from Hazardous Surfaces and Moving Parts.

Proposed subsection (e) requires that surfaces of permanent amusement rides with which patrons may come in contact be free from sharp, rough, or splintered surfaces, edges and corners, and protected from protruding studs, bolts, screws, or other projections. Surfaces and moving parts that a patron may forcibly contact while in motion shall be adequately padded or otherwise designed and maintained to protect against injury. Moving parts with which patrons may come into contact shall be guarded to protect against injury.

This subsection is necessary to provide rides with surfaces and moving parts that protect against injury.

Subsection (f). Patron Retention, Restraint, and Support.

Proposed subsection (f) requires all tubs, cars, chairs, seats, gondolas, and other carriers to be equipped as necessary with devices that retain, restrain, or support patrons to provide protection against injury. All fastenings shall be of a type that cannot be released inadvertently by the patron or by other accidental means. All belts, bars, footrests, and other equipment intended for the protection of patrons while they are on the ride shall be designed and maintained to perform their intended function.

This subsection is necessary to provide ride carriers and carrier equipment adequate for patron safety.

Subsection (g) Accessing and Exiting Permanent Amusement Rides.

Proposed subsection (g) requires that all steps, ramps and walkways inside the site of the permanent amusement ride used by patrons for accessing and exiting the ride be of adequate design and be maintained to perform their intended function.

This subsection is necessary to ensure safe access and exit for ride patrons.

Subsection (h) Operation and Control of the Ride.

Proposed subsection (h) requires all rides to be operated and controlled only by authorized persons. Authorized persons designated to operate or control the ride shall be within immediate reach of the operating controls while the ride is in operation. Rides are required to have a stop switch and a disconnect switch within immediate reach of the authorized person. No permanent amusement ride is allowed to be capable of starting immediately upon reset of the stop switch or disconnect switch. Equipment rooms, machinery rooms, and all other areas unsafe for access by patrons or other unauthorized persons are required to be posted to forbid, and secured to prevent, unauthorized access. Fences installed or replaced after the effective date of this section are required to conform to the specifications of ASTM F 1159-97a. Electrically energized overhead screens used to power bumper car type rides are required to be free of holes that are not part of the design.

This subsection is necessary to ensure that rides are properly operated and controlled, including means to stop and restart the ride, and to safely control patron access to unauthorized areas.

Subsection (i) Electrical Wiring Affecting Permanent Amusement Rides.

Proposed subsection (i) requires that the installation of all new electrical wiring for permanent amusement rides to conform to the applicable requirements of the California Code of Regulations, Title 24, Part 3, California Electrical Code, 1998.

This subsection is necessary to ensure that new electrical wiring for permanent amusement rides is safe as dictated by current electrical standards.

Article 3. Aquatic Devices

Section 3195.10. Application.

Proposed Section 3195.10 provides that the requirements in Section 3195.11 through Section 3195.13 apply only to aquatic devices.

This section is necessary to ensure that amusement ride operators and owners understand what requirements are applicable to their particular businesses.

Section 3195.11. Operation and Maintenance.

Subsection (a)

Proposed subsection (a) requires aquatic device owners/operators to supplement the operation procedures required by Section 3193.3(a)(4) with written emergency procedures as well as instructions and procedures addressing staffing levels, control of patron movement, supervision of flumes and splash pools, and maintenance of water quality. Staffing levels are required to be determined by the owner/operator based on seven specified considerations.

This subsection is necessary to ensure that the special risks posed by aquatic devices are addressed by written procedures for their safe operation.

Subsection (b)

Proposed subsection (b) requires that, at all times that the aquatic device is in operation, owners/operators of aquatic devices maintain staffing levels in compliance with the written operational instructions required by proposed subsection (a)(2)(A) of this section. Attendants are required to be located in certain vicinities of the water slide splash pool. Current certification to perform first aid and cardio-pulmonary resuscitation is required for personnel who supervise patrons at aquatic devices or interact with patrons for the purpose of controlling patron usage of or movement through aquatic devices.

This subsection is necessary to ensure that staffing levels are sufficient to ensure patron safety, and that all staff responsible for patron safety are qualified to perform first aid and CPR.

Subsection (c)

Proposed subsection (c) requires that surfaces and edges of aquatic devices that patrons may contact be free from cutting or pinching hazards or any other hazards that may cause injury.

This subsection is necessary to provide surfaces and edges that are not hazardous to patrons.

Subsection (d)

Proposed subsection (d) requires that, if power is used to generate water movement for an aquatic device, at least one attendant have access to a stopping device that will remove all power.

This subsection is necessary to be able to control the movement of water in emergencies or other situations where this may be necessary to prevent or mitigate patron injury.

Subsection (e)

Proposed subsection (e) requires that drains on aquatic devices be visible to at least one attendant. This subsection is necessary to ensure drains do not present a hazard to patrons.

Subsection (f)

Proposed subsection (f) requires that entrances to and exits from aquatic devices be clearly marked.

This subsection is necessary to ensure that patrons will be able to distinguish entry points from exit points and minimize the potential for injury that could arise from confusion or the inability to find entries or exits.

Subsection (g)

Proposed subsection (g) requires that areas of ingress to and egress from aquatic devices, as well as walking surfaces in or on aquatic devices, be designed and maintained to drain standing water and to be slip resistant.

This subsection is necessary to provide safe walking surfaces for patrons.

Article 4. Recordkeeping and Information Transfer

Section 3195.12. Recordkeeping.

Proposed Section 3195.12 requires owners/operators to make and maintain for at least five years, and make available to the Division upon request during any Division inspection, records of all of the following: training, maintenance, repair, inspection, testing, accidents required to be reported pursuant to Section 344.15 of Title 8, amusement ride incidents, water quality testing of aquatic devices and determinations of staffing levels to be maintained at aquatic devices. This section requires records of incidents to consist of any reasonable format chosen by the owner/operator, and that records of accidents include certain information such as date of occurrence, name of ride manufacturer, a detailed description of the accident, information on all persons involved in the accident, and the nature of injuries and treatment that resulted.

This section is necessary to enable the Division to verify that owners/operators have complied with the requirements of these regulations and with Title 8, Section 344 et. seq.

Section 3195.13. Transfer of Information with Used Permanent Amusement Rides.

Subsection (a)

Proposed subsection (a) requires that the seller of a used permanent amusement ride provide with the ride upon transfer to the new owner the following information, to the extent known or within the seller's possession: manufacturer documentation, operational and maintenance manuals, information on any modifications, and a summary of all incidents reported to the manufacturer pursuant to the procedure required by Section 3195.3(a)(4)(B) of this Title and all accidents reported pursuant to Title 8, Section 344.15.

This subsection is necessary to ensure that the new owner/operator receives from the seller all available safety-related information on the ride.

Subsection (b)

Proposed subsection (b) requires the purchaser of a used permanent amusement ride to notify the manufacturer, if the manufacturer still exists, of the change of ownership.

This subsection is necessary to apprise the manufacturer of the ownership so that the manufacturer will be able to provide the new owner/operator with safety-related information such as revisions on maintenance, testing, or operation procedures.

Subsection (c)

Proposed subsection (c) requires that the purchaser of a used permanent amusement ride obtain from the manufacturer all updated owner, operational, and maintenance manuals and service bulletins to the extent they are available.

This subsection is necessary to ensure the new owner/operator has current information necessary to operate, maintain, and service the ride in a safe manner.

Section 3195.14 Confidentiality.

Proposed Section 3195.14 requires the Division to maintain the confidentiality of all documentation and records required by this Subchapter to the extent that the Division obtains such documentation and it is protected by Labor Code Section 6322 or any other applicable provision of law.

This proposal is necessary to demonstrate to owners/operators that the Division will maintain the confidentiality of documentation and records it acquires as required by law.

DOCUMENTS RELIED UPON

Memorandum from Bryan Eckman, Associate Amusement Ride Engineer, Division of Occupational Safety and Health, to the Rulemaking File dated April 9, 2002.

This document is available for review Monday through Friday from 8:00 a.m. to 4:30 p.m. at the Standards Board Office located at 2520 Venture Oaks Way, Suite 350, Sacramento, California.

DOCUMENTS INCORPORATED BY REFERENCE

- (1) American Society for Testing and Materials (ASTM) F 698-94, "Standard Specification for Physical Information to be Provided for Amusement Rides and Devices," Sections 1 through 3.
- (2) ASTM F 770-93 (Reapproved 2000), "Standard Practice for Operation Procedures for Amusement Rides and Devices," Sections 1 through 4.
- (3) ASTM F 846-92 (Reapproved 1998), "Standard Guide for Testing Performance of Amusement Rides and Devices," Sections 1 through 8.
- (4) ASTM F 853-98, "Standard Practice for Maintenance Procedures for Amusement Rides and Devices," Sections 1 through 6.
- (5) ASTM F 893-87 (Reapproved 1995), "Standard Guide for Inspection of Amusement Rides and Devices," Sections 1 through 5.
- (6) ASTM F 1159-97a, "Standard Practice for the Design and Manufacture of Amusement Rides and Devices," Sections 1 through 14.
- (7) ASTM F 1193-97, "Standard Practice for an Amusement Ride and Devices Manufacturer Quality Assurance Program," Sections 1 through 7.

These documents are too cumbersome or impractical to publish in Title 8. Therefore, it is proposed to incorporate the documents by reference. Copies of these documents are available for review Monday through Friday from 8:00 a.m. to 4:30 p.m. at the Standards Board Office located at 2520 Venture Oaks Way, Suite 350, Sacramento, California.

REASONABLE ALTERNATIVES THAT WOULD LESSEN ADVERSE IMPACT ON SMALL BUSINESSES

No reasonable alternatives were identified by the Board and no reasonable alternatives identified by the Board or otherwise brought to its attention would lessen the impact on small businesses.

SPECIFIC TECHNOLOGIES OR EQUIPMENT

This proposal will not mandate the use of specific technologies or equipment.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

No significant costs or savings to state agencies will result as a consequence of the proposed action.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses

The Occupational Safety and Health Standards Board has made an initial determination that the adoption of these regulations may have a significant adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states. The Standards Board has considered proposed alternatives that would lessen any adverse economic impact on business and invites you to submit proposals. Submissions may include the following considerations: The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to businesses. Consolidation or simplification of compliance and reporting requirements for businesses. The use of performance standards rather than prescriptive standards. Exemption or partial exemption from the regulatory requirements for businesses.

These estimates are based on the memorandum from Bryan Eckman to the rulemaking file dated April 8, 2002.

A. Background Data:

1. Number of permanent amusement ride facilities impacted: 105
2. Number of permanent amusement rides: 1700
3. Average rides per business: $1700/105 = 16$

B. Estimated initial cost for a typical permanent amusement ride park:

1. Cost of compliance for 16 permanent amusement rides after adoption of proposed regulations: 16 rides @ 52.6 hours/ride @ \$50.625/hour¹ =

\$42,606.00

2. Cost of compliance for one new permanent amusement rides after adoption of proposed regulations: 45 hours @ \$50.625/hour =

\$2,278.13

¹ This figure is based on the following assumptions: hourly wage of personnel assigned to evaluating rides and bringing into compliance is \$33.75. Benefits associated with wage are 20% or \$6.75. Overhead associated with wage is 25% of (wage + benefits) or \$10.125. Total hourly person-hour cost is wage + benefits + overhead or \$50.625/hour. These assumptions regarding benefits and overhead are figures used by the Department of Industrial Relations in its budgetary proposals and are considered here to be valid for these estimates of private industry costs.

3. Cost of compliance for one major modification of a permanent amusement ride after adoption of proposed regulations: 30 hours @ \$50.625/hour =

\$1,518.75

Total Initial Cost: \$46,402.88

C. Estimated annual ongoing cost for a typical permanent amusement ride park:

1. Cost of compliance for 16 permanent amusement rides after first year: 16 rides @ 15 hours @ \$50.625/hour =

\$12,150.00

2. Cost of compliance for one new permanent amusement ride per year after first year: 25 hours @ \$50.625/hour =

\$1,265.625

3. Cost of compliance for one major modification of a permanent amusement ride after adoption of proposed regulations: 22.5 hours @ \$50.625/hour =

\$1,139.0625

Total Ongoing Cost: \$14,554.69

Cost Impact on Private Persons or Businesses

The Board is not aware of any costs impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action, except as stated under "Cost Impact on Businesses."

Costs or Savings in Federal Funding to the State

This proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under "Determination of Mandate."

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed regulations do not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, these regulations do not constitute a "new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

The California Supreme Court has established that a "program" within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (County of Los Angeles v. State of California (1987) 43 Cal.3d 46.)

The proposed regulations do not require local agencies to carry out the governmental function of providing services to the public. Rather, the regulations require local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed regulations do not in any way require local agencies to administer the California Occupational Safety and Health program. (See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.)

The proposed regulations do not impose unique requirements on local governments. All employers - state, local and private - will be required to comply with the prescribed standards.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments may affect small businesses.

ASSESSMENT

The adoption of the proposed amendments to these regulations will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

ALTERNATIVES THAT WOULD AFFECT PRIVATE PERSONS

No reasonable alternatives have been identified by the Board or have otherwise been identified and brought to its attention that would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.